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11 The Trust Board

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8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **(SAN FERNANDO VALLEY DIVISION)**

11 In re:
12 ICPW Liquidation Corporation, a California
13 corporation,¹ Debtor and Debtor in Possession.

14 In re:
15 ICPW Liquidation Corporation, a Nevada
16 corporation,² Debtor and Debtor in Possession.

17 Affects:
18 Both Debtors
19 ICPW Liquidation Corporation, a California
20 corporation
21 ICPW Liquidation Corporation, a Nevada
22 corporation

Lead Case No.: 1:17-bk-12408-MB
Jointly administered with:
1:17-bk-12409-MB Chapter 11 Cases

POST-CONFIRMATION STATUS REPORT

HEARING:

DATE: February 28, 2019
TIME: 1:30 p.m.
PLACE: Courtroom "303"
21041 Burbank Boulevard
Woodland Hills, California 91367

23 **TO THE HONORABLE MARTIN R. BARASH, UNITED STATES**
24
25 **BANKRUPTCY JUDGE:**

26 Matthew Pliskin, the trustee (the "Trustee"), under the trust (the "Trust") created pursuant
27 to the *Debtors and Official Committee of Equity Security Holders Joint Plan of Liquidation Dated*

28 ¹ Formerly known as Ironclad Performance Wear Corporation, a California corporation.

² Formerly known as Ironclad Performance Wear Corporation, a Nevada corporation.

1 *February 9, 2018 (the “Plan”) [Docket No. 438], and that certain trust agreement dated as of*
2 *February 28, 2018 (the “Trust Agreement”), entered into by and among the Trustee, ICPW*
3 *Liquidation Corporation, a California corporation, formerly known as Ironclad Performance Wear*
4 *Corporation, a California corporation, and ICPW Liquidation Corporation, a Nevada corporation*
5 *(“ICPW Nevada”), formerly known as Ironclad Performance Wear Corporation, a Nevada*
6 *corporation, hereby respectfully submits this Post-Confirmation Status Report, pursuant to Rule*
7 *3020-1(b) of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central*
8 *District of California.*

9 The Plan is a liquidating plan confirmed by entry of an order by this Court on February
10 13, 2018 (the “Confirmation Order”). [Docket No. 442.]

11 **Listing of Claims & Interests and Payments Under the Plan**

Class	Creditor(s)	Claim	Plan Payment to Date
Class 1	General Unsecured Claims	\$354,727.26	See Below
Class 2	Class of Shareholders	See Below	See Below
Class 3	Secured Claims	Disputed	Reserve
Class 4	Priority Unsecured Claims	Disputed	Reserve

15 **Class 1**

16 Class 1 consists of general unsecured claims. As indicated in the Plan, prior to the Plan, all
17 non-disputed general unsecured claims were paid by the Debtors with post-petition interest in
18 accordance with prior orders of the Court and the *Order Granting Debtors’ Motion For Authority*
19 *To Pay Undisputed Pre-Petition Claims Of Solvent Estate And Establishing Protocol*. [Docket
20 No. 345.]

21 On May 29, 2018, the Trustee filed the *Notice of Objection and Objection to Claims in*
22 *Accordance with Debtors and Official Committee of Equity Security Holders Joint Plan of*
23 *Liquidation Dated February 9, 2018* (the “Objection”). [Docket No. 582]. The Objection
24 provides that (i) the Trustee disputes the validity and amount of the seven claims listed therein
25 (the “Claimants”) and the enforceability of the claims (the “Claims”) against the estates, (ii) the
26 Trustee anticipates that any litigation against the Claimants will be commenced in another forum,
27 and (iii) requests disallowance of the Claims after an order is obtained in a different forum. The
28

1 Trustee filed the Objection in accordance with the Plan and to provide the Claimants with notice
2 that the Trustee disputed the Claims and, thus, no distribution would be paid on the Claims.

3 **Class 2**

4 Class 2 consists of the Beneficial Interest Holders (as defined below), who were the equity
5 holders of ICPW Nevada as of the Record Date (*i.e.*, February 12, 2018). Pursuant to the Plan, on
6 February 28, 2018 (the “Effective Date”), the Trust was created and all of the outstanding shares
7 of common stock of ICPW Nevada (the “Common Stock”) existing on the Effective Date were
8 cancelled, and the record holders who owned shares of Common Stock on the Record Date
9 became holders of non-transferable beneficial interests in the Trust in exchange for those shares
10 (“Beneficial Interest Holders”). [Docket No. 438]. The Trust was created for the exclusive benefit
11 of Beneficial Interest Holders, net of claims and expenses payable under the express terms of the
12 Trust. *Id.*

13 In June 2018, the Trustee sent a letter to Beneficial Interest Holders informing them of an
14 interim distribution to them in the amount of \$7,243,994 (representing \$0.0835/share based upon
15 86,754,428 total outstanding shares). As of June 30, 2018, the amount of \$5,901,770.96 has been
16 disbursed. As of December 31, 2018, the total amount of \$7,051,297.44 has been disbursed.

17 **Class 3**

18 Class 3 consists of the contingent and disputed claim of Radians Wareham Holdings, Inc.
19 (“Radians”). Pursuant to paragraph 26 in the Confirmation Order, on March 12, 2018, the Trustee
20 filed the *Motion to Estimate Claim of Radians Wareham Holding, Inc. for Reimbursement of*
21 *Legal Fees Pursuant to 11 U.S.C. § 502(c)* [Docket No. 473] (the “Estimation Motion”) for
22 purposes of establishing the Class 3 Reserve Fund (as defined in the Confirmation Order). At the
23 hearing on the Estimation Motion, the Trustee and Radians agreed the that the Class 3 Reserve
24 Fund should be \$2,300,000 (the “Agreed Class 3 Reserve Fund”), which is reflected in *Order*
25 *Granting In Part Motion To Estimate Claim Of Radians Wareham Holding, Inc. For*
26 *Reimbursement Of Legal Fees Pursuant To 11 U.S.C. § 502(c)*. [Docket No. 555]. The Trustee is
27 holding the Agreed Class 3 Reserve Fund in a segregated trust account.

28

1 **Class 4**

2 Class 4 consists of priority claims, pursuant to 11 U.S.C. §§ 507(a)(3), (4), (5), (6), and
3 (7). The only non-tax priority claims referenced in the Plan are the two priority wage claims in
4 the amount of \$12,850 (the “Cordes and Aisenberg Priority Claims”) filed by Cordes and
5 Aisenberg (the “Former Officers”). Prior to filing the Plan, the Official Committee of Equity
6 Security Holders had filed a complaint against the Former Officers that (i) objected to the claims
7 asserted by the Former Officers in their proofs of claims, and (ii) set forth the claims against the
8 Former Officers seeking damages for pre-petition harm arising from their conduct [Adv. Proc.
9 No.: 1:18-ap-01011].

10 The Plan classified the disputed claims of the Former Officers as part of Class 4. The Plan
11 provided that total sum of \$300,000.00 (the “Class 4 Reserve Fund”) would be retained in a
12 segregated trust account, which would be used to pay the Cordes and Aisenberg Priority Claims to
13 the extent allowed by the Court, plus any indemnification claims of the Former Officers to the
14 extent allowed by the Court and not otherwise satisfied by the Debtors’ D&O Insurance. The
15 Former Officers filed an objection to the Plan, which sought a larger reserve. [Docket No. 425].

16 Pursuant to paragraph 26 in the Confirmation Order, the Trustee filed a motion to estimate
17 the disputed claims of the Former Officers for purposes of establishing the Class 4 Reserve Fund.
18 [Docket No. 474]. After briefing and prior to the hearing, the Trustee and the Former Officers
19 reached an agreement, which resulted in the *Order Approving Stipulation On Motion To Estimate
20 Claims Nos. 7 And 8 Filed By Jeffrey Cordes And William Aisenberg Pursuant To 11 U.S.C. §
21 502(c)* [Docket No. 553] establishing a reserve in the amount of \$546,313.50 in accordance with
22 the Plan. The Trustee is holding the Class 4 Reserve Fund in a segregated trust account.

23 **Post-Confirmation Taxes**

24 The Trustee paid 141,597.38 in actual and estimated taxes for the tax years 2016 and
25 2017. The Trustee has been advised that the Trust does not owe taxes for 2018.

26 **Projections**

27 The Plan provided that it was being funded from various sources (e.g., remaining estate
28 funds from the sale proceeds, funds in the operating account, monetary recoveries to be obtained

1 by the Trust postpetition, etc.) and not cash derived from the operation of any business by the
2 Debtor.

3 Postconfirmation, as of December 31, 2018, there have been disbursements in the amount
4 of approximately \$10,652,714.46, as set forth in the “post-confirmation status reports” provided
5 to the Office of the United States Trustee and filed with this Court. Since the quarterly report
6 ending on September 31, 2018, there have been additional disbursements in the amount of
7 \$313,120.77. Currently, the Trust has approximately \$4,946,251.42, on hand.

8 The Trustee believes that the Trust is current on his payments to the United States Trustee
9 for quarterly fees. Most recently, the Trustee caused a check in the amount of \$5,200 for the 4th
10 quarter of 2018 to be sent to the U.S. Trustee on or about January 31, 2019.

11 **Plan Consummation and Final Decree**

12 While the Trustee has made an interim distribution, the Trustee anticipates at least one
13 other distribution. There is also significant litigation that continues to be pursued against third
14 parties, as set forth above. Given the uncertainty related to the timing of the completion of
15 litigation, the Trustee respectfully submits that it would be premature at this time to predict the
16 timing of a motion for final decree.

17 **Other Pertinent Information Needed To Explain The Progress Toward Completion
18 Of The Confirmed Plan**

19 The Plan provides that the Trustee will, among other things, investigate and, if
20 appropriate, pursue all claims and causes of action that belong to the Estates and are assigned to
21 the Trust for the benefit of the Beneficial Interest Holders. [Docket No. 438]. Since the
22 Confirmation Order, the Trustee has analyzed and pursued certain claims and causes of action, as
23 follows:

24 • On April 25, 2018, the Trustee commenced an arbitration proceeding against
25 Thomas Felton, the former Senior Vice President of Supply Chain (the “Felton
26 Arbitration”). On July 30, 2018, the Hon. George H. King (Ret.), Arbitrator, issued
27 an order denying Felton’s motion for summary disposition, holding that the
28 Trustee adequately alleged claims for breach of fiduciary duty, breach of contract,

1 and damages. Judge King ordered the parties to meet and confer over whether the
2 claims between the Trustee and the Former Officers should be consolidated and
3 whether the parties would make a joint request to consolidate under JAMS Rule
4 6(e).

5 • After extensive briefing and a mediation that did not result in settlement, on July
6 31, 2018, the Court entered an order granting the Trustee's motion to compel
7 arbitration against the Former Officers. [Adv. Proc. No.: 1:18-ap-01011 [Docket
8 No. 52]. There is now a pending arbitration against the Former Officers that is
9 consolidated with the Felton Arbitration (the "Consolidated Arbitration") and
10 being administered by JAMS. The Consolidated Arbitration is in the document
11 discovery phase. The arbitration hearing is scheduled for November 2019 before
12 Hon. George H. King (Ret.).

13 • The Trustee has also sued Robert Goldstein and his company for aiding and
14 abetting breach of fiduciary duty in the United States District Court for the Central
15 District of California (Case No 2:18-cv-09491-FMO-AS). Mr. Goldstein and his
16 company moved to dismiss on personal jurisdiction grounds. The District Court
17 asked for supplemental briefing on whether the matter should be transferred to the
18 N.D. of Texas. The parties are briefing that issue and, at the same time, discussing
19 a resolution.

20 • On July 17, 2018, the Court held a status conference in the adversary proceeding
21 against Radians, at which time (i) the Court indicated, among other things, that it
22 planned on rendering a decision on Radians' motion to dismiss after additional
23 analysis, and (ii) continued the adversary proceeding. The hearing on the motion to
24 dismiss and the status conference have been continued since then and there is a
25 status conference scheduled in February 28, 2019.

26 • The Trustee continues to analyze and pursue other litigation with third parties,
27 including BDO.

1 Dated: February 14, 2019

DENTONS US LLP
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3 By: /s/Tania M. Moyron
4 Tania M. Moyron, Counsel
5 to the Trustee and Trust Board

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